

REMARKS

The Examiner rejected claims 58, 59, 75 and 76 under 35 U.S.C. §102(e) as being anticipated by MacNeil. The Applicants appreciate the Examiner's indication that claims 1-57, 68-74 and 77-82 are allowed. The Applicants also appreciate the Examiner's indication that claims 60-67 would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims.

The Applicants respectfully traverse the rejection of claims 58, 59, 75 and 76 as anticipated by MacNeil.

It is submitted that claim 58 defines over the art of record. Claim 58 requires:

said front side of said sidewalls curving generally downwardly to a point below said plane beginning adjacent said base so as to impact a curved geometry when viewed in side elevation.

(Emphasis added.) The MacNeil reference does not disclose the invention of claim 58 which requires a curving of the front side of the sidewalls to a location below the plane. The curving of the sidewalls begins at a point adjacent the base. Any curving of the sidewalls in MacNeil does not begin adjacent the base, but, instead begins remote from the base. Applicants expressed these same arguments in its response to the Office Action dated September 13, 2000, which ultimately removed the rejection of claim 58 based on the MacNeil reference in the next Office Action. Accordingly, it is submitted that the MacNeil reference does not teach or suggest the invention of claim 58.

It is submitted that claim 59, which depends from claim 58, is allowable over MacNeil for the same reasons provided above in connection with claim 58.

It is submitted that claim 75 defines over the art of record. Claim 75 requires a lacrosse head having a socket with the upper surface of the socket defining a plane parallel to the handle/head axis with:

at least a portion of said front side of said sidewalls, located adjacent said base, being offset below said plane.

(Emphasis added.) The MacNeil reference does not disclose the invention of claim 75, which requires that at least a portion of the front side of sidewalls are offset below the plane. The claim requires that the offset of at least a portion of the front side of the sidewalls occurs adjacent the base. MacNeil does not have any portion of the sidewall adjacent the base being located below the plane. To the extent any portion of the front side of the sidewall in MacNeil is located below the plane, it occurs at a location remote from the base. Additionally, Applicants expressed these same arguments in its response to the Office Action dated September 13, 2000, which ultimately removed the rejection of claim 75 based on MacNeil in the next Office Action. Accordingly, it is submitted that the MacNeil reference does not teach or suggest the invention of claim 75.

It is submitted that claim 76 defines over the art of record. Claim 76 requires a lacrosse head having a socket with the upper surface of the socket defining a plane parallel to the handle/head axis with:

said front side of said sidewalls beginning adjacent said base,
curving downwardly to a point below said plane so as to input
a curved geometry when viewed in side elevation.

(Emphasis added.) The MacNeil reference does not disclose the invention of claim 76 which requires a curving of the front side of the sidewalls to a location below the plane. The curving of the sidewalls begins at a point adjacent the base. Any curving of the sidewalls in MacNeil does not begin adjacent the base, but instead begins remote from the base. Applicants expressed these same arguments in its response to the Office Action dated September 13, 2000, which ultimately removed the rejection of claim 76 based on the MacNeil reference in the next Office Action. Accordingly, it is submitted that the MacNeil reference does not teach or suggest the invention of claim 76.

Claim 78 has been amended to correct an antecedent basis problem discovered by Applicants. The phrase "said plane" did not have proper antecedent basis. This antecedent basis problem has been corrected.

Claims 83 and 84 are newly added by this Amendment. Claim 83 requires that the front side of the sidewalls curve generally downwardly beginning adjacent the base.

U.S.S.N. 09/174,804

- 7 -

WLI 0104 R

Claim 84 requires that the front side of the sidewalls extend downward below said plane beginning adjacent the base. These claims are submitted to be allowable over the MacNeil reference for the same reasons provided above, namely, the MacNeil reference does not have any portion of the sidewall located adjacent the base being located below the plane. To the extent any portion of the front side of the sidewall in MacNeil is located below the plane, it occurs at a location remote from the base. It is submitted that these newly added claims are also allowable over the art.

Moreover, the filing date of the MacNeil reference is August 2, 1994. Declarations of the inventors, David Morrow and Phillip Naumburg, are being submitted herewith attesting to the fact that they completed the invention in this application in the United States at a date prior to August 2, 1994. Thus, based on the attached Declarations pursuant to 37 C.F.R. §1.131, the MacNeil reference is not prior art to the present application and the rejection thereover should be removed.

Pending Litigation:

In accordance with its duty of candor, Applicants state that U.S. Patent No. 5,568,925 is currently invalid in litigation. The Assignee of the '925 patent recently filed an action against J. de Beer & Son, Inc. in the United States District court for the Eastern District of Michigan. The official caption of the case is *Warrior Lacrosse, Inc. v. J. de Beer & Son, Inc.*, Civil Action no. 02-70193, Judge George Woods. No answer to the Complaint has yet been filed. However, a copy of the Complaint is attached hereto.

Conclusion:

It is submitted that all objections and rejections of record have been overcome and that all pending claims are in a condition for allowance. A notice of allowance is therefore earnestly solicited.

U.S.S.N. 09/174,804

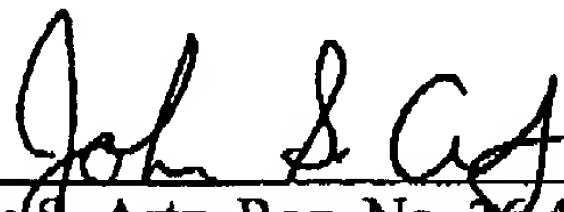
- 8 -

WLI 0104 R

If the Examiner should have any questions, he is urged to contact the undersigned at 248-223-9500.

Respectfully Submitted

ARTZ & ARTZ, P.C.



John S. Artz, Reg. No. 36,431
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

Dated: April 19, 2002